IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

Crl.MC.No. 3478 of 2007()

(C.C.NO.4591/2006 OF JFMC-1, ERNAKULAM)

(CRIME NO.50/2006 OF PALARIVATTOM POLICE STATION)

PETITIONERS: 1ST,2ND & 3RD ACCUSED:

1. **SANEESH DIVAKARAN,**
   S/O. LATE SRI.C.V. DIVAKARAN, AGED 31 YEARS,
   SMITHA HOUSE, CHAKKUNGAL ROAD, PALARIVATTOM,
   KOCHI-682025.

2. **S. SUSEELA DEVI,**
   W/O. LATE SRI.C.V. DIVAKARAN, AGED 65 YEARS,
   SMITHA HOUSE, CHAKKUNGAL ROAD, PALARIVATTOM,
   KOCHI-682025.

3. **SMITHA MANOJ, W/O. S.R. MANOJ,**
   AGED 33 YEARS, SMITHA HOUSE, CHAKKUNGAL ROAD,
   PALARIVATTOM, KOCHI-682025.

BY ADV. SRI.BIMAL K.NATH

RESPONDENTS: COMPLAINANTS:

1. **STATE OF KERALA,**
   REPRESENTED BY THE PUBLIC PROSECUTOR.

2. **BONNY B.RAJ, D/O. BABURAJAN,**
   AGED 25 YEARS, RESIDING AT THAMBURU,THEKKAVILA,
   KOLLAM.

BY ADV. SRI.B.PRAMOD
BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R. BASANT, J.

Crl. M.C. No. 3478 OF 2007

Dated this the 23rd day of November, 2007

O R D E R

The petitioners are accused 1 to 3 in a pending prosecution before JFCM-I, Ernakulam (C.C.No.4591/06) under Section 498A IPC. Cognizance has been taken in that case on the basis of the final report submitted by the police after due investigation. The crime concerned i.e., crime No.50/06 of Palarivattom Police Station, was registered on the basis of a complaint raised by the 2nd respondent that the petitioners, her husband, mother-in-law and sister-in-law respectively are guilty of matrimonial cruelty of the culpable variety punishable under Section 498A IPC against her.

2. Cognizance has been taken. The matter is pending before the learned Magistrate. At this stage, the petitioners along with the 2nd respondent have come before this Court to report to this Court that the disputes between them have been settled and the 2nd respondent has compounded the offences allegedly committed by the petitioners against her. Copy of agreement between the parties is produced and an affidavit is being filed by the 2nd respondent to confirm such composition, submits the learned counsel for the 2nd respondent. The learned counsel for the 2nd respondent asserts that the 2nd respondent has

willingly and voluntarily settled the dispute and compounded the offence allegedly committed against her.

3. I am satisfied that the parties have settled the dispute and the composition can be accepted.

4. But the offence under section 498A IPC is not legally compoundable under section 320 Cr.P.C. The counsel, in these circumstances, rely on the decision reported in ***B.S.Joshi Vs. State of Haryana*** [AIR 2003 SC 1386]. That decision is authority for the proposition that the interests of justice may, at times, transcend the interests of mere law and in such circumstances, the stipulations of Section 320 Cr.P.C. cannot be held to fetter the sweep, width and amplitude of the extraordinary inherent jurisdiction under Section 482 Cr.P.C. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C., as explained in the dictum in ***B.S.Joshi Vs. State of Haryana*** [AIR 2003 SC 1386] can and ought to be invoked.

5. This petition is accordingly allowed. C.C.No.4591/06 before JFCM-I, Ernakulam against the petitioners under section 498A IPC is hereby quashed.

(R.BASANT, JUDGE)

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